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9 IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
10 OAKLAND DIVISION

11 MILLARD W. TONG

12 Appellant,

13 v.

14 THE CALIFORNIA DEPARTMENT OF
15 INDUSTRIAL RELATIONS,

16 Appellee.
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CASE NO. 4:17-cv-01201-HSG

Appeal from Bankruptcy Case No. 15-30275

CHAPTER 11

Judge Hon. Haywood S. Gilliam, Jr.

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20 **STIPULATION RE DISMISSAL AND ORDER**

21 This Stipulation (or "Agreement") is made between and among Millard W. Tong,
22 individually and as Debtor-in-Possession, herein "Debtor," and California Department of Industrial
23 Relations, Edward Kunnes and Evan Adams, herein "DIR," being the parties to the above referenced
24 appeal arising from a motion for contempt in the bankruptcy court proceedings.

25 As the results of a judicially supervised settlement conference, the Debtor and DIR have
26 entered into agreements memorialized in stipulation entitled "Stipulation for Issuance of Order for
27 Distribution of Proceeds from the Sale of 1620 Mason Street, San Francisco, CA (After BDRP
28 Mediation)" that, among other matters, settled the issues pending before this Court. The bankruptcy

1 court has authorized settlement of these issues and the parties have performed all agreements under
2 the settlement. Accordingly, Debtor and DIR stipulate as follows:

3 Debtor and DIR jointly request that the United States District Court, sitting as the court of
4 appeal, regarding Debtor's motion for contempt, dismiss said appeal with each party to bear their
5 own costs and attorney's fees.

6 Dated: November 27, 2017

/s/ Christopher W. Frick

7 Christopher W. Frick
8 Counsel for Appellees,
9 CA Dept. of Industrial Relations, Edward Kunnes and
Evan Adams

10 Dated: November 27, 2017

/s/ Lawrence A. Jacobson

11 Lawrence A. Jacobson
12 Counsel for Appellant Millard Tong

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14 **ORDER**

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16 PURSUANT TO STIPULATION, IT IS SO ORDERED.

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18 Dated: 11/28/2017

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Hon. Haywood S. Gilliam, Jr.

PROOF OF SERVICE

I am employed in the County of Alameda, California. I am over the age of eighteen years and not a party to the within action; my business address is 1515 Clay Street, 7th Floor, Oakland, CA 94612. On November 27, 2017, I served the following documents:

STIPULATION RE DISMISSAL AND ORDER

on the parties listed below, through their attorneys of record, by placing true copies thereof in sealed envelopes addressed as shown below for service as designated below:

(A) **By personal service.** I personally delivered the documents to the persons at the addresses listed below. For a party represented by an attorney, delivery was made to the attorney or at the attorney's office by leaving the documents in an envelope or package clearly labeled to identify the attorney being served with a receptionist or an individual in charge of the office.

(B) **By United States mail.** I enclosed the documents in a sealed envelope or package addressed to the persons at the address below and:

(1) ☐ deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.

(a) ☐ and the sealed envelope was prepared for Certified Mail, Return Receipt Requested, with appropriate fees for such service fully prepaid.

(b) ☐ and the sealed envelope was prepared for Registered Mail, with appropriate fees for such service fully prepaid.

(2) ☐ placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

(a) ☐ and the sealed envelope was prepared for Certified Mail, Return Receipt Requested, with appropriate fees for such service fully prepaid.

(b) ☐ and the sealed envelope was prepared for Registered Mail, with appropriate fees for such service fully prepaid.

I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Sacramento, California.

(C) **By overnight delivery:**

(1) ☐ I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses below. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

(2) ☐ The documents were delivered to an authorized courier or driver authorized to receive documents by an overnight delivery carrier, in an envelope or package designated by the carrier with delivery fees paid or provided for, addressed to the person to whom it is to be served, at the office address as last given by that person on the document filed in the cause and

1 served on the party making service. I declare under penalty of perjury under the laws of the State of
2 California that the foregoing is true and correct.

3 (D) **By fax transmission.** Based on an agreement of the parties to accept service by fax
4 transmission, I faxed the documents to the persons at the fax numbers listed below. No error was
reported by the fax machine that I used. A copy of the record of the fax transmission, which I
printed out, is attached.

5 (E) ☒ **By e-mail or electronic transmission.** Based on a court order or an agreement of
6 the parties to accept service by e-mail or electronic transmission, I caused the documents to be sent
7 to the persons at the e-mail addresses listed below. I did not receive, within a reasonable time after
transmission, any electronic message or other indication that the transmission was unsuccessful.

8 (F) **By messenger service.** I served the documents by placing them in an envelope or
9 package addressed to the persons at the addresses listed below and providing them to a professional
messenger service. (*A declaration by the messenger service is attached.*) I declare under penalty of
perjury under the laws of the State of California that the foregoing is true and correct.

<u>TYPE OF SERVICE</u>	<u>ADDRESS/FAX NO. (IF APPLICABLE)</u>
(C1) & (E)	LAWRENCE A. JACOBSON, SBN 057393 SEAN M. JACOBSON, SBN 227241 COHEN AND JACOBSON, LLP 66 Bovet Road, Suite 285 San Mateo, CA 94402 Telephone: (650) 261-6280 Facsimile: (650) 368-6221

17 I declare under penalty of perjury under the laws of the State of California that the
18 foregoing is true and correct.

19 Date: November 27, 2017

/s/ Winnie Inigo-Rock
Winnie Inigo-Rock